

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON JONES,

Defendant.

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Case No. 07-05076-CR-SW-RED

ORDER

Before the Court are Defendant Jones' Motion to Dismiss Indictment (Doc. 37), the Report and Recommendation of United States Magistrate Judge (Doc. 42), and Defendant's objections to the Report and Recommendation (Doc. 43).

Defendant Jason Jones asserts three theories in support of his motion to dismiss the indictment: (1) that the government should be forced to honor the representations of Alcohol, Tobacco and Firearms Agent Chris Wiegner to his state attorney that the federal government would not prosecute him based on the facts of the case, (2) that the government's failure to honor Agent Wiegner's representations coupled with its failure to lodge a detainer in a timely manner on the instant indictment amounts to government misconduct, and (3) the U.S. Attorney's Office violated the Department of Justice's *Petite* Policy by bringing this indictment. On February 24, 2009, United States Magistrate Judge James C. England recommended Defendant's motion be denied in its entirety. Defendant thereafter filed objections to the Report and Recommendation.

The Court has made a careful and independent review of Defendant's motion, the parties' responses and replies, the Report and Recommendation, Defendant's objections, and the applicable law. While it is clear that the circumstances surrounding Defendant's decision to enter an *Alford*

plea in state court are not ideal, and hopefully will not be repeated in the future, it was also quite clear to all concerned that ATF Agent Wiegner was not speaking for the U.S. Attorney. Therefore, the Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge (Doc. 42) in full. Defendant's objections are **OVERRULED**, and Defendant Jones' Motion to Dismiss the Indictment (Doc. 37) is **DENIED**.

IT IS SO ORDERED.

DATED: March 20, 2009

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT